

UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

STEPHEN G. CONKLIN	:	Civil No. [REDACTED]
	:	
Plaintiff	:	Assigned by Designation
	:	Hon. Timothy J. Savage
v.	:	(1:13-cv-01531-TJS)
	:	
YVETTE KANE	:	MOTION FOR REMAND
	:	
Defendant	:	JURY TRIAL DEMANDED

FILED
HARRISBURG, PA
JUL - 8 2013
MARY E. D'ANDREA, CLERK
Per [Signature]

PLAINTIFF'S MOTION FOR REMAND

NOW COMES, Plaintiff Stephen G. Conklin who moves upon this Court to promptly REMAND the above-captioned matter to the Court of Common Pleas of Dauphin County, Pennsylvania; and in support thereof, Plaintiff now states the following:

1. On or about April 4, 2013, Plaintiff commenced an action against the above-named Defendant, by way of Writ of Summons, as issued by the Court of Common Pleas of Dauphin County, Pennsylvania.
2. Plaintiff's Praecipe/Writ of summons is docketed in the State Court as 2013-CV-2962-CV.
3. On or about May 10, 2013, Plaintiff filed for a re-issuance of the foregoing summons and thereafter, delivered unto the Sheriff of Dauphin County for purpose of perfecting service upon Defendant.

4. On or about (dated) May 24, 2013 a return of service was issued by the Dauphin County Sheriff.
5. On or about June 7, 2013 a Notice of Removal was filed electronically with this Court, by Mark E. Morrison, as Assistant U.S. Attorney of the Office of the United States Attorney on behalf of Defendant.
6. Presumably concurrent, a Notice of Filing Notice of Removal was sent, via U.S. Mail, with brief cover letter by Christina Garber, as legal assistant for Peter J. Smith (U.S. Attorney) addressed to the Prothonotary of Dauphin County. An additional copy was provided, seeking to be date-stamped and returned via enclosed envelope.
7. A review of the docket entries for Dauphin County indicate that the Notice of Filing Notice of Removal was received/docketed on June 11, 2013; and, the record sent to this Court on June 12, 2013.
8. On or about June 14, 2013 Chief Judge Theodore A. McKee, of the Third Circuit Court of Appeals signed a Designation of District Judge for Service in Another District Within the Circuit.
9. The foregoing designation was assigned unto District Judge Timothy J. Savage of the Eastern District Court of Pennsylvania, under 28 U.S.C. § 292(b), Chief Judge McKee stating, [having] “satisfied myself that it is in the public interest to do so.”

10. The basis for Plaintiff's Motion for Remand to State Court now follows:

REMAND

11. Plaintiff hereby incorporates each and every of the preceding paragraphs as if all are fully set forth at length, herein.
12. Defendant's Notice of Removal is bereft of any legitimate/lawful basis for removal; there is no basis for this Court to assume jurisdiction.
13. Defendant's entire [statutory] legal basis for their notice of removal is premised exclusively upon 28 U.S.C. § 1441(¶ 2); effected procedurally under 28 U.S.C. § 1446. (see introductory)
14. Defendant's both admits and submits per their notice at ¶ 1, that their removal action is based solely on Plaintiff's praecipe/writ of summons.
15. Defendant further admits that, " To date, Plaintiff has not served a complaint upon Defendant." (¶ 3).
16. Plaintiff's commencement of an action against Defendant, and Defendant's admission and lone exhibit are based solely on a praecipe/writ of summons that is "bare-boned" [as allowed under Pennsylvania law].

17. Therefore, Defendant cannot simply rely upon what they “think” the [summons] action be as:

- a. by terms of the statute, it is not what the Defendant purportedly knew and/or knows, it is what the relevant document [summons] says;
- b. There is no complaint, claim or cause of action before this court upon which Defendant may rely.

18. Moreover, Defendant fails, *inter alia*, to set forth in their notice (as required):

- a. Any claim for relief upon which such action or proceeding is based;
- b. Any pleading, motion, order or other paper from which it may be first ascertained that the case is one which is or has become removable.

19. Plaintiff believes that the filing for Removal was knowingly and intentionally done for improper purposes, in violation of Fed.R.Civ.P.

11.

20. Plaintiff has been prejudiced by Defendant’s unlawful removal, and has incurred costs associated with Defendant’s action.

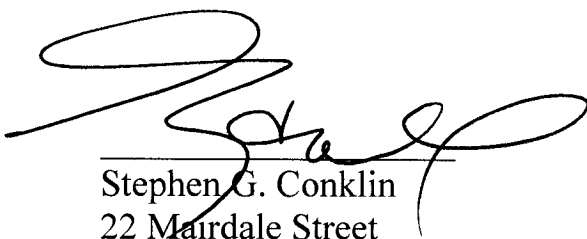
21. Plaintiff seeks damages for costs associated with defending against Defendant's unlawful removal, in the amount of five hundred (\$500.00).

22. Plaintiff's costs are both reasonable and authorized by existing law and can, upon request, be evidenced by receipt.

23. Plaintiff has filed concurrently herewith, a Brief in Support of this Motion for Remand; and hereby incorporates by reference, Plaintiff's Brief in Support of Remand, as if fully set forth at length herein.

WHEREFORE, in consideration of the foregoing, Plaintiff respectfully requests that this Court forthwith REMAND this matter back to State Court, and award Plaintiff the reasonable costs associated with defending against Defendant's Removal; and, for any and all additional relief, that this Court may deem just and proper.

Respectfully Submitted,



Stephen G. Conklin
22 Mairdale Street
Pittsburgh, Pa. 15214
(717) 460-5450

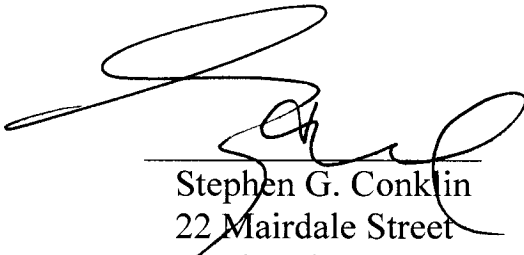
UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

STEPHEN G. CONKLIN	:	Civil No. 3:02-at-06000
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Plaintiff	:	Assigned by Designation
	:	Hon. Timothy J. Savage
v.	:	(1:13-cv-01531-TJS)
	:	
YVETTE KANE	:	MOTION FOR REMAND
Defendant	:	
	:	JURY TRIAL DEMANDED

DECLARATION

I, Stephen G. Conklin, hereby declare under penalty of perjury that
the foregoing is true and correct.

Date: July 8, 2013


Stephen G. Conklin
22 Mairdale Street
Pittsburgh, Pa. 15214
(717) 460-5450

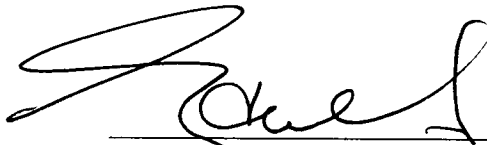
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CERTIFICATE OF SERVICE

I, Stephen G. Conklin, do hereby certify this 8th day of July, 2013, that I caused to be served, a true and correct copy of my Motion for Remand, by First Class, U.S. Mail, postage pre-paid, on the following:

Mark E. Morrison, Asst. U.S. Atty.
c/o U.S. Attorneys Office
28 Walnut Street, Suite 220
P.O. Box 11754
Harrisburg, Pa. 17108-1754



Stephen G. Conklin
22 Mairdale Street
Pittsburgh, Pa. 15214